

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17915
[Redacted] Petitioner.)	
)	DECISION
)	
)	

On December 30, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable years 1998 and 1999 in the total amount of \$2,269.

The taxpayer filed a timely protest. He submitted additional information, but did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Tax Commission records showed the taxpayer (who appeared to be an Idaho resident) had not filed Idaho resident individual income tax returns for the years 1998 through 2002. The bureau sent the taxpayer correspondence asking him for an explanation of why he had not filed his returns. The taxpayer did not respond.

[Redacted] Idaho Code § 63-3045 (1)(a) states:

63-3045. Notice of redetermination or deficiency -- Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer

may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

When the Bureau did not receive a response from the taxpayer, it prepared Idaho returns on behalf of the taxpayer for tax years 1998 and 1999. The NODD amounts were based on Tax Commission records and information contained in W-2s and 1099s [Redacted].

The IRS records showed the taxpayer's income levels and Idaho income tax responsibility were not worth pursuing a tax return for the years 2000 through 2002. Therefore, Idaho returns for those years were neither prepared nor included in the NODD. They are not part of this decision.

The Bureau received a letter of protest from the taxpayer asking for additional time to prepare his 1998 and 1999 Idaho returns for filing. Subsequently, in response to a telephone call from the taxpayer, the Bureau sent the taxpayer copies of his federal and state income records. On April 28, 2004, the Bureau received the taxpayer's 1998 Idaho resident individual income tax return.

A letter acknowledging receipt of the 1998 return was sent to the taxpayer. He was given the option of submitting his 1999 return and withdrawing his protest or having his file transferred to the legal department for further consideration.

The taxpayer did not answer the letter, and his file was transferred to the Legal/Tax Policy Division of the Tax Commission for administrative review. He did not answer a letter from the Tax Appeals Specialist offering him the opportunity to appear for an informal conference or submit additional information.

The taxpayer met the requirements for filing Idaho resident income tax returns for 1998 and 1999. However, he did not file either return until he sent the 1998 return on April 26, 2004. The taxpayer prepared the return using the status of head of household with himself as the person who qualified him as head of household. He claimed one dependent child but did not identify that child

by name or social security number. Furthermore, the taxpayer did not attach a copy of his federal return pursuant to the instructions on the face of the Idaho tax return and required by Idaho Code.

To use the status of head of household, a taxpayer must have provided a home for another person for the majority of the year. The taxpayer himself cannot qualify the taxpayer to use the status of head of household. Secondly, for the taxpayer to claim a child as a dependent, he must provide the child's name and social security number. Because the taxpayer did not provide a copy of his federal return, he did not make the child's name and social security number available to the Tax Commission.

The Bureau computed the taxpayer's Idaho income tax responsibility on the income shown as received by the taxpayer [Redacted]. The taxpayer reported the same amount of income when he prepared the 1998 Idaho return he furnished to the Bureau. The Bureau used the filing status of single with one personal exemption and the standard deduction. Withholding that could be identified in Tax Commission records (\$1,042 for 1998 and \$7 for 1999) reduced the tax amounts.

The Tax Commission has received nothing to indicate the NODD prepared by the Bureau is in error. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated December 30, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty,

and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,005	\$251	\$432	\$1,688
1999	442	111	158	711
			TOTAL	<u>\$2,399</u>

Interest is computed through September 1, 2005.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
[Redacted]

[Redacted]
